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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,738	03/14/2006	Yves Gagnet	MCA-705 US	6947
25182 7590 03/29/2010 MILLIPORE CORPORATION 290 CONCORD ROAD BILLERICA, MA 01821				
EXAMINER				
GOLIGHTLY, ERIC WAYNE				
ART UNIT		PAPER NUMBER		
1792				
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03/29/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/571,738

**Applicant(s)**

GAIGNET ET AL

**Examiner**

Eric Golightly

**Art Unit**

1792

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 8-12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) 5, 15, 16, 18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, -6 and 8-14, 17, 19 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 18 December 2009
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicants' amendment filed 12/18/2009 is acknowledged. Claims 1-6, 8-12 and 14-21 are pending. Claims 5, 15, 16, 18 and 20 are withdrawn. Claims 7 and 13 are canceled. Claim 21 is new.

#### ***Information Disclosure Statement***

2. The information disclosure statement filed 12/18/2009 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. Specifically, there does not appear to be such concise explanations for JP 393761, JP 46673 and JP 00015744. It has been placed in the application file, but the information referred to therein has not been considered.

#### ***Specification***

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicants' use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.

- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

#### **Content of Specification**

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)),

and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements,

compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
  - (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
  - (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.
4. The disclosure is objected to because of the following informality:
- Regarding the specification amendment filed 12/18/2009, the word "the" immediately before "Niermeyer" in line 5 should be deleted.
- Appropriate correction is required.

#### ***Claim Objections***

5. Claims 1 and 19 are objected to because of the following informalities:

Regarding claim 1, the word "comprising" in line 4 should be replaced with "comprises" and the word "are" in line 7 should be replaced with "is".

Further regarding claim 1, the comma immediately following the phrase "to clean" bridging lines 11 and 12 should apparently be deleted.

Regarding claim 19, the phrase "between the" should apparently be added before "the means" in line 7 in order to clarify that the Markush group consists of the cleaning agent being disposed at a location selected from the group consisting of: **1) between** the purification pretreatment means and the means for purifying a liquid by tangential filtration; and **2) between** the means for purifying a liquid by tangential filtration and a fluid outlet formed in the housing, **rather than** at a location selected from the group consisting of: **1) between** the purification pretreatment means and the means for purifying a liquid by tangential filtration; **2) the** means for purifying a liquid by tangential filtration; and **3) a** fluid outlet formed in the housing.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-4, 6, 8-12, 14, 17, 19 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Regarding claim 1, the phrase “adapted to be associated upstream of a purification treatment module in a fluid purification system” (lines 2 and 3) renders the claim indefinite because the purification treatment module and the fluid purification system are not positively claimed and it is not clear whether or not the purification treatment module and the purification system are intended to be required structure. It appears that the intended meaning is that the purification treatment module and fluid purification system are not intended to be required structure, and this meaning will be used for purposes of examination. Further, the word “associated” renders the claim indefinite because it is not clear what that means here. It appears that the intended meaning may be that the pretreatment module is fully capable of being located upstream of a purification treatment module, and this meaning will be used for purposes of examination.

Further regarding claim 1, the phrase “to clean” bridging lines 11 and 12 renders the phrase indefinite because it is not clear what this modifies, i.e., *what* is to clean? -- a module ... to clean? a cleaning agent ... to clean? fluid caused to circulate ... to clean?, etc.

Regarding claim 21, the phrase “the fluid” renders the claim indefinite because it is not clear whether “the fluid” refers the claim 1 recitations of: 1) “a fluid” line 3; 2) “a fluid” at line 4; 3) “fluid” at line 9; 3) “a fluid” at line 11; or to a combination of those recitations. It appears that the intended meaning is that “the fluid” in claim 21 refers to all “fluid” recitations in claim 1, i.e. all recitations of “fluid” in claim 1 refer to the same fluid, and this meaning will be used for purposes of examination.



***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-4, 6-11, 14, 17, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,780,197 to Schuman (hereinafter "Schuman").

With regard to applicant's "means for purifying a fluid by tangential filtration" (claim 1, bridging lines 4 and 5), the language appears to be an attempt to invoke 35 USC 112, 6<sup>th</sup> paragraph interpretation of the claims. A claim limitation will be interpreted to invoke 35 U.S.C. 112, sixth paragraph, if it meets the following 3-prong analysis:

- (A) the claim limitations must use the phrase "means for" or "step for";
- (B) the "means for" or "step for" must be modified by functional language;  
and
- (C) the phrase "means for" or "step for" must not be modified by sufficient structure, material or acts for achieving the specified function.

In the instant case, applicants appear to have met the limitations set forth in MPEP § 2181, and examiner has turned to the specification for clarification.

In the specification, applicants define the "means for purifying a fluid by tangential filtration" as reverse osmosis, nanofiltration, ultrafiltration or microfiltration (specification at page 2, lines 31-33). Accordingly, the examiner is interpreting the "means for purifying a fluid by tangential filtration" to encompass reverse osmosis,

nanofiltration, ultrafiltration or microfiltration and its equivalents. Equivalent structures may include those that perform the function specified in the claim, structures that are not excluded by any specific definition provided in the specification for an equivalent, or is a structural equivalent of the corresponding element disclosed in the specification. See MPEP 2183. It is noted that the "means for purifying a fluid by tangential filtration" is not interpreted as limiting structure since it is recited as a component of a purification treatment module which is not interpreted as limiting structure. See the section "Claim Rejections - 35 USC § 112".

Regarding claim 1, Schuman teaches a module (abstract), which is fully capable of being disposed of, is fully capable of being used for pretreatment, e.g., by using subsequent treatment means (Fig. 2, ref. 84 and col. 6, lines 44 and 45 upstream of Fig. 2, especially ref. 72, 68, 78 and col. 5, lines 19-25), is fully capable of being located upstream of a purification treatment module comprising a means for purifying a fluid by tangential filtration in a fluid purification system, the module comprising a purification pretreatment means (Fig. 2, ref. 56 and col. 4, line 19) and a housing (Fig. 2, ref. 24, including ref. 28 and 94 and col. 3, line 33, 34, and 44 and col. 5, line 48) in which the purification means are housed, wherein fluid communication may be established between the purification system and the pretreatment module (Fig. 2, ref. 30, 32, 34 and 38 and col. 3, lines 45-50 and col. 6, lines 35-56), and wherein the housing contains from the outset a cleaning agent (Fig. 2, ref. 104 and col. 5, line 61) disposed to be fully capable of coming in contact with a fluid caused to circulate inside the housing.

Regarding claim 2, the module as per the Schuman teaching is fully capable of not being demounted.

Regarding claim 3, Schuman discloses a module wherein the cleaning agent is disclosed between the purification pretreatment means and a purified fluid outlet formed in the housing (Fig. 2, ref. 44 and col. 4, lines 30 and 31).

Regarding claim 4, Schuman discloses a module wherein the cleaning agent is housed in a space (Fig. 2, ref. 94 and col. 5, line 48) in the housing.

Regarding claim 6, the tangential filtration is not interpreted as part of the claimed apparatus (see the section "Claim Rejections - 35 USC § 112"). It is noted that reverse osmosis, nanofiltration, ultrafiltration and microfiltration are known in the art.

Regarding claim 8, Schuman discloses a module wherein the purification pretreatment means comprises a front filtration member (Fig. 2, ref. 84).

Regarding claim 9, Schuman discloses a module wherein the cleaning agent comprises a chemical compound and is capable of having a bactericidal effect (col. 5, line 61).

Regarding claim 10, Schuman discloses a module wherein the cleaning agent is in a form of tablets (col. 5, line 61).

Regarding claim 11, Schuman discloses a module wherein the cleaning agent is a chlorinated product (col. 5, lines 61, 67 and 68).

Regarding claim 14, initially it is noted that the recited system requires no additional structure beyond what is taught in claim 1. Thus, Schuman discloses a system for purifying a fluid comprising the module of claim 1.

Regarding claim 17, Schuman discloses a module wherein the cleaning agent is housed in a recess (Fig. 2, area within ref. 62 and col. 4, line 26) in a raised portion of the housing.

Regarding claim 19, Schuman discloses a module wherein the cleaning agent is fully capable of being disposed at a location between a means for purifying a liquid by tangential filtration and a fluid outlet formed in the housing (Fig. 2, ref. 44 and col. 4, lines 30 and 31). It is noted that the recited means for purifying a liquid by tangential filtration is not interpreted as part of the claimed apparatus (see the section "Claim Rejections - 35 USC § 112").

Regarding claim 21, Shuman discloses a module which is fully capable of being used in a method wherein the fluid is water (abstract).

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicants are advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
13. The common knowledge or known in the art statements made in the previous Office action are taken to be admitted prior art because applicants failed to traverse the examiner's assertion of official notice. MPEP 2144.03(C).
14. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuman (US 4,780,197).

Schuman discloses a module wherein the cleaning agent comprises chlorine (col. 5, lines 61-68), but does not explicitly teach the agent comprises one the recited list of substances, which includes bleach. Bleach is known in the art and the skilled artisan would have found it obvious to use an agent comprising bleach in the module of the Schuman teaching to, e.g., kill bacteria, with a reasonable expectation of success.

### ***Double Patenting***

15. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

16. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 3 of U.S. Patent No. 4,944,875 to Gagnet (hereinafter "'875"), which teaches a device for producing pure water. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of '875 differ from those of claim 1 of the present invention in that the claims of '875 do not explicitly teach the cleaning agent. Cleaning agents are known in the art and the skilled artisan would find it obvious to include a cleaning agent in order to enhance the fluid purification with a reasonable expectation of success.

***Response to Amendment***

17. The objections to the specification and claims, and the rejections of claims 7 and 13 under 35 USC 102(b) and 103(a), respectively, made in the prior Office action are withdrawn in view of the amendment. New objections are raised herein as discussed in the sections "Specification" and "Claim Objections". It is noted that the present amended claim 19 includes the phrase "means for ~~purifying a~~" in line 5 which was not previously in the claim; thus, "means for" should have been underlined and "~~purifying a~~" should not have been there.

***Response to Arguments***

18. Applicants' arguments filed 12/18/2009 have been fully considered but they are not persuasive.

Applicants argue that the applied art teaches away from a cleaning agent placed at the outset inside the pretreatment disposable module, wherein the cleaning agent is intended to be used to clean a portion of the purification system downstream of the pretreatment module following starting a system cleaning procedure since, it is alleged, Schuman (US 4,780,197) a chlorinator assembly inside a filter element, which chlorinator assembly is intended to be used to clean fluid circulating through the assembly (remarks at page 11, first paragraph and page 13, third and fourth full paragraphs). Initially it is noted that the claim language is not clear that it is a cleaning agent placed at the outset inside the pretreatment disposable module that is intended to be used to clean a portion of the purification system downstream of the pretreatment

module following starting a system cleaning procedure (see the section "Claim Rejections - 35 USC § 112" regarding the phrase "to clean" in claim 1). Assuming, *arguendo*, such intern were clearly taught, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Here, Schuman discloses a housing (Fig. 2, ref. 24, including ref. 28 and 94 and col. 3, line 33, 34, and 44 and col. 5, line 48) that contains from the outset a cleaning agent (Fig. 2, ref. 104 and col. 5, line 61), that is, the cleaning agent is in the housing from the beginning, and the cleaning agent is fully capable of being used to clean a portion of a purification system (which is not positively claimed) downstream of the pretreatment module following starting a system cleaning procedure since Schuman discloses a cleaning agent comprising chlorine which will continue to disinfect, or clean, downstream of the module.

Regarding applicants' argument that the applied art does not teach or suggest a means for purifying a fluid by tangential filtration (remarks at page 11, second paragraph and page 13, third paragraph), the tangential filtration is not positively claimed and is not interpreted as part of the claimed apparatus (see the section "Claim Rejections - 35 USC § 112"). It is noted that reverse osmosis, nanofiltration, ultrafiltration and microfiltration are known in the art.

Applicants' assert that the prior Office action included conclusory statements that claims 6 and 12 were obvious in view of the applied art coupled with the knowledge of



the skilled artisan since, it is alleged, the Office action failed to provide a rational basis for arriving at the conclusion (remarks at page 12). It is noted that the prior Office action did not make the conclusory statement that claims 6 and 12 were obvious by merely stating this was so. Rather, the Office action put forth that the claimed features would have been obvious in view of the applied art and the knowledge of the skilled artisan with a reasonable expectation of success (see the previous Office action at page 14, first and second paragraphs), which is a rational basis.

Applicants' argument at page 12, last full paragraph, is not clear. It appears to be a recitation of claim 1. Applicants are invited to clarify or elaborate.

### ***Conclusion***

19. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Golightly whose telephone number is (571) 270-3715. The examiner can normally be reached on Monday to Thursday, 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Kornakov can be reached on (571) 272-1303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EWG  
/Michael Kornakov/  
Supervisory Patent Examiner, Art Unit 1792